

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 22-CR-95

MITCHELL C. BURTON,

Defendant.

ORDER DENYING MOTION FOR SENTENCE CREDIT

On May 3, 2022, Defendant Mitchell C. Burton was charged with Possession of a Firearm by a Felon contrary to 18 U.S.C. §§ 922(g)(1) and 924(a)(2), and on September 7, 2022 he entered a plea of guilty. On December 9, 2022, Burton was sentenced to 72 months imprisonment, to be followed by 3 years of supervised release. On December 27, 2022, Burton filed a motion seeking a sentence credit for 218 days he spent in custody prior to his sentencing because this court issued a detainer. For the following reasons, Burton's motion is denied.

Burton was implicated in a scheme to exchange guns for Methamphetamine, and the above federal charges stemmed from an October 14, 2020 search of Burton's residence wherein six firearms, including one military grade machine gun, were recovered. Due to Burton's previous felony convictions, he was prohibited from possessing firearms. Seven months after Burton's arrest in this case, Winnebago County police searched his apartment when responding to a domestic disturbance call and found multiple firearms, Methamphetamine, and Marijuana. He was arrested on state charges and ultimately sentenced to 30 months in prison, to be followed by 5 years of supervised release. The federal Indictment was filed in the above-referenced case on May

3, 2022, and on May 4, 2022, a detainer was lodged, since Burton was being held in state custody. At his December 9, 2022, sentencing in this case, the court stated “[t]his is a serious crime and so I feel the need to impose a significant sentence. With these things into consideration *and considering the 30 months that he is, well actually it was less than 30 months as I understand it, but the amount of time he has received in custody already*, I hereby impose a sentence of 72 months in the custody of the Bureau of Prisons—that’s six years. It’s less than the Government has asked for and I think that the Government has made a strong argument for a longer sentence.” Sent’g Audio Zoom Recording 120922 at 31:04–34 (emphasis added). As noted above, the defendant was placed in state custody and charged in Winnebago County Case No. 2021CF000277 based upon *separate* conduct, although concerningly similar to the federally charged conduct, seven months *after* his arrest in this case. The court assessed any credit for that time at sentencing and no further credit is warranted here. For the reasons stated at sentencing and referenced above, Burton’s motion for sentence credit is, therefore, denied.

Dated at Green Bay, Wisconsin this 20th day of January, 2023.

s/ William C. Griesbach

William C. Griesbach
United States District Judge